

REMARKS/ARGUMENTS

Applicants appreciate the Examiner's thorough review of the present application, as evidenced by the final Official Action. The final Official Action continues to reject Claims 1, 2, 12, 13, 23, 24, 35, 36, 43-45, 48 and 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,862,357 to Ahlstrom et al. The final Official Action also rejects Claims 3-8, 10, 14-19, 21, 25-30, 32, 46, 47, 49 and 51 under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent, in view of U.S. Patent No. 5,948,040 to DeLorme et al. Further, although not included in the Detailed Action portion of the final Official Action (but included in the Detailed Action portion of the Official Action dated April 23, 2002), Claims 11, 22, 33, 34 and 37-42 appear rejected under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent in view of the DeLorme patent, and further in view of U.S. Patent No. 5,897,620 to Walker et al.

In response to the final Official Action, Applicants have amended independent Claims 1, 10, 12, 21, 23, 36, 44, 49 and 50 to more patentably distinguish the claimed invention from the cited references. Also, Applicants have amended independent Claim 33 to correct an inadvertent typographical error. Applicants submit that the amendments to Claims 1, 10, 12, 21, 23, 33, 36, 44, 49 and 50 do not present new issues as the amendments were made to further include a recitation consistent to that found in independent Claim 43. Applicants have not amended independent Claims 11, 22, 33, 34 or 43 in light of the Official Action, however, and therefore traverse the rejections of such claims, as described in more detail below.

***A. Claims 1, 2, 12, 13, 23, 24, 35, 36, 43-45, 48 and 50 are Patentably Distinct
From the Ahlstrom Patent***

As indicated above, the final Official Action rejects Claims 1, 2, 12, 13, 23, 24, 35, 36, 43-45, 48 and 50 as being anticipated by U.S. Patent No. 4,862,357 to Ahlstrom et al. In this regard, the Ahlstrom patent discloses a computer reservation system that receives a proposed travel itinerary including a starting location, a final location and any desired intermediate stops. From the proposed itinerary, the system determines a number of city pairs, including a starting and ending point of one leg of a journey. As disclosed, an itinerary includes a city pair for the

first leg of the trip, a city pair for the final leg of the trip, along with any city pairs for intermediate legs of the trip. Each city pair is then analyzed based upon information, such as flight schedule, fare and fare limitations information, stored in a remote data base. After being analyzed, then, flight/fare alternatives for the city pairs in the travel itinerary can be displayed.

Amended independent Claims 1, 12, 23 and 36, as well as independent Claim 43, recite methods, computer-readable mediums and systems for providing information regarding savings associated with travel alternatives. And amended independent Claims 44 and 50 recite methods for providing travel alternatives. As recited in independent Claims 1, 12, 23, 36, 43, 44 and 50, a travel itinerary is received or provided that includes an origination location and a destination location. The travel itinerary is then analyzed to determine a set of alternative itineraries, where analyzing the travel itinerary includes identifying at least one alternative itinerary including an alternate originating location or destination. Then, as recited in independent Claims 1, 12, 23, 36, 43 and 44, information (e.g., values) regarding the travel itinerary specified in the request and the alternative itineraries can be determined, with a report subsequently generated to include the information. As recited in Claim 50, a report can be provided such that the user can visually inspect a map including a graphical representation of the itinerary specified in the request and the alternative itineraries.

In contrast to the recited methods, computer-readable mediums and systems of amended independent Claims 1, 12, 23, 36, 44 and 50, as well as independent Claim 43, nowhere does the Ahlstrom patent teach or suggest identifying an alternative itinerary that includes either an alternative origination or destination location. As disclosed in the Ahlstrom patent, a user inputs a starting location and a final destination. The journey between the starting location and final destination is then broken up into a number of legs. Each leg, then, is defined by a starting and ending point that make up a "city pair." Col. 2, lines 57-61. In this regard, a journey is defined by a starting location and a final destination, and includes one or more city pairs between the starting location and final destination. Flight information for each city pair is then retrieved, and thereafter, the flight information for all the city pairs can be presented to the user. In determining the flight information, the system of the Ahlstrom patent determines a number of flight/fare alternatives for each city pair since a single flight between a city pair can have several

different valid flight/fare alternative structures. Col. 10, lines 8-17. The flight/fare alternatives for each city pair can then be scored, based upon information such as a preferred airline and a preferred route (including the departure airport and arrival airport for the city pair, the airline to be flown as well as the flight number). *See* col. 11, lines 60-66.

As shown, then, the system and method of the Ahlstrom patent only provide for altering flight/fare combinations between fixed city pairs, which are intermediate to the starting location and final destination. The Ahlstrom patent, then, does not teach or suggest identifying alternative itineraries that include either an alternative starting location or final destination, as recited by independent Claims 1, 12, 23, 36, 43, 44 and 50, but merely an alternative flight/fare combinations for intermediate flight legs.

Applicants therefore respectfully submit that the claimed invention of independent Claims 1, 12, 23, 36, 43, 44 and 50 is patentably distinct from the system and method of the Ahlstrom patent. As such, Applicants respectfully submit that the rejection of independent Claims 1, 12, 23, 36, 43, 44 and 50 under 35 U.S.C. § 102(b) as being anticipated by the Ahlstrom patent is overcome. Further, as dependent Claims 2, 13, 24, 35, 45 and 48 depend, directly or indirectly, from independent Claims 1, 12, 23 and 44, Applicants respectfully submit that the claimed invention of dependent Claims 2, 13, 24, 35, 45 and 48 is patentably distinct from the system and method of the Ahlstrom patent for at least the reasons given above with respect to independent Claims 1, 12, 23 and 44. In this regard, Applicants also respectfully submit that the rejection of dependent Claims 2, 13, 24, 35, 45 and 48 under 35 U.S.C. § 102(b) as being anticipated by the Ahlstrom patent is overcome.

B. Claims 3-8, 10, 14-19, 21, 25-30, 32, 46, 47, 49 and 51 are Patentably Distinct From the Ahlstrom Patent and the DeLorme Patent, Taken Individually or in Combination

The final Official Action rejects Claims 3-8, 10, 14-19, 21, 25-30, 32, 46, 47, 49 and 51 under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent, in view of U.S. Patent No. 5,948,040 to DeLorme et al. As described above, amended independent Claims 1, 12, 23, 44 and 50 are patentably distinct from the Ahlstrom patent. Also, as dependent Claims 3-8, 14-19,

25-30, 46, 47 and 50 depend, directly or indirectly, from independent Claims 1, 12, 23, 44 and 50, respectively, dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 include all the limitations of a respective independent claim. Therefore, dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 are patentably distinct from the Ahlstrom patent for at least the reasons given above with respect to independent Claims 1, 12, 23, 44 and 50. As described below, the combination of the Ahlstrom patent with the DeLorme patent does not remedy the shortcomings of the Ahlstrom patent, and still fails to teach or suggest the claimed invention.

Amended independent Claims 10, 21 and 32 provide a method, computer-readable medium and computer system, respectively, for providing information regarding savings associated with travel alternatives. And amended independent Claim 49 recites a method for providing travel alternatives. Like independent Claims 1, 12, 23, 36, 43, 44 and 50, amended independent Claims 10, 21, 32 and 49 recite receiving or providing a travel itinerary that includes an origination location and a destination location. The travel itinerary is then analyzed to determine a set of alternative itineraries, where analyzing the travel itinerary includes identifying at least one alternative itinerary including an alternate originating location or destination. As described above, the Ahlstrom patent does not teach or suggest identifying alternative itineraries that include either an alternative starting location or final destination, as recited by independent Claims 10, 21, 32 and 49. Applicants respectfully submit, then, that independent Claims 10, 21, 32 and 49, like dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51, are patentably distinct from the Ahlstrom patent for at least the same reasons given above with respect to independent Claims 1, 12, 23, 36, 43, 44 and 50.

The DeLorme patent discloses a travel reservation information and planning system and method. According to the method, users engage in a planning process, whereby the users plan, revise or edit travel plans. The users can also preview alternate routes between a fixed travel origin and travel destination, select points of interest, and compare times and costs of transportation options such that the users can achieve a final travel plan. The DeLorme system allows a user to construct a highly selective travel route between the travel origin and travel destination, with user-selected waypoints of interest along the route. In this regard, the DeLorme

system provides for changing the travel route including the transportation routes, waypoints, and objects or points of interest. Col. 7, lines 25-30.

As shown then, like the Ahlstrom patent, the DeLorme patent provides for altering routes between an origination and a destination location. Also like the Ahlstrom patent, however, the DeLorme patent does not teach or suggest identifying at least one alternative itinerary that includes an alternative origin or destination that is different from those received in a travel itinerary, as recited by amended independent Claims 1, 12, 23, 36, 43, 44 and 50, as well as amended independent Claims 10, 21, 32 and 49. In this regard, the DeLorme patent provides for receiving the origination and a destination location, and determining a route between the origination and destination location where the route is defined by a series of waypoints. During optimization of the travel itinerary, the DeLorme patent provides for modifying the waypoints, but does not provide for modifying either the origination or destination locations, as recited in amended independent Claims 1, 12, 23, 36, 43, 44 and 50, and amended independent Claims 10, 21, 32 and 49. Applicants respectfully submit, then, that the claimed invention of amended independent Claims 1, 12, 23, 36, 43, 44 and 50, and amended independent Claims 10, 21, 32 and 49, is patentably distinct from the system and method of the DeLorme patent. As before, as dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 depend, directly or indirectly, from independent Claims 1, 12, 23, 44 and 50, respectively, dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 include all the limitations of independent Claims 1, 12, 23, 44 and 50, respectively. Therefore, dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 are patentably distinct from the DeLorme patent for at least the reasons given above with respect to independent Claims 1, 12, 23, 44 and 50.

Applicants therefore respectfully submit that the claimed invention of amended independent Claims 1, 12, 23, 36, 43, 44 and 50, and amended independent Claims 10, 21, 32 and 49, is patentably distinct from the system and method of both the Ahlstrom patent and the DeLorme patent, taken individually or in combination. As such, Applicants respectfully submit that the rejection of independent Claims 10, 21, 32 and 49 under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent, in view of the DeLorme patent, is overcome. Further, as dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 depend, directly or indirectly from

independent Claims 1, 12, 23, 44 and 50, respectively, Applicants respectfully submit that the claimed invention of dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 is patentably distinct from the system and method of both the Ahlstrom patent and the DeLorme patent, taken individually or in combination, for at least the reasons given above with respect to independent Claims 1, 12, 23, 44 and 50. In this regard, Applicants also respectfully submit that the rejection of dependent Claims 3-8, 14-19, 25-30, 46, 47 and 51 under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent, in view of the DeLorme patent, is overcome.

B. Claims 11, 22, 33, 34 and 37-42 are Patentably Distinct From the Ahlstrom Patent, the DeLorme Patent and the Walker Patent, Taken Individually or in Combination

As also indicated above, although not included in the Detailed Action portion of the final Official Action (but included in the Detailed Action portion of the Official Action dated April 23, 2002), Claims 11, 22, 33, 34 and 37-42 appear rejected under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent in view of the DeLorme patent, and further in view of U.S. Patent No. 5,897,620 to Walker et al. As described above, the Ahlstrom patent discloses a computer reservation system that receives a proposed travel itinerary including a starting location, a final location and any desired intermediate stops. As also described above, the DeLorme patent discloses a travel reservation information and planning system and method.

The Walker patent discloses a method and apparatus for the sale of airline-specified flight tickets. The Walker patent discloses an unspecified-time airline ticket that represents a purchased seat on a flight to be subsequently selected for a traveler-specified itinerary. As disclosed, then, various systems and methods are provided for matching the unspecified-time ticket with a flight. In one disclosed embodiment, a traveler could submit a bid to an airline for an unspecified-time ticket, where the bid specifies an amount (e.g., \$375) the traveler is willing to pay for the ticket. Upon receipt of the bid, the airline can then decide whether to accept or reject the bid.

Independent Claims 11, 22, 33 and 34 recite a method, computer-readable medium and computer systems, respectfully, for providing information regarding savings associated with

travel alternatives. As recited, a travel itinerary is received or provided that includes an origination location and a destination location. The travel itinerary is then analyzed to determine a set of alternative itineraries, and thereafter values regarding the travel itinerary specified in the request and the alternative itineraries can then be determined, e.g., the prices of the respective itineraries are determined. At least one price-to-beat request can then be sent to a plurality of service providers (or, as recited in independent Claims 33 and 34, a trader interface or supplier interface, respectfully, can receive price-to-beat requests). For example, the price of the least expensive itinerary may fix the price of the price-to-beat request. Then, a response may be received from the service providers that includes information on a service provider itinerary and a value, e.g., price, of the service provider itinerary, where the service provider itineraries may be the same, or comparable, to the itinerary specified in the request or one of the alternative itineraries. The values of the itinerary specified in the request and the alternative itineraries can then be reconfigured based upon the responses, and thereafter a report can be generated including the reconfigured values.

In contrast to the method, computer-readable medium and computer systems of independent Claims 11, 22, 33 and 34, neither the Ahlstrom patent, the DeLorme patent nor the Walker patent teach or suggest, individually or in combination, a system or method including analyzing a travel itinerary to determine a set of alternative itineraries, determining values for the travel itinerary and the alternative itineraries, sending at least one price-to-beat request (where the price-to-beat request may include the values of the travel itinerary and the alternative itineraries) and receiving responses including a service provider travel itinerary that may be the same, or comparable, to the travel itinerary or an alternative itinerary, as recited in independent Claims 11, 22, 33 and 34. Further, none of the Ahlstrom patent, the DeLorme patent or the Walker patent teach or suggest, individually or in combination, reconfiguring the values of the travel itinerary and the alternative itineraries based upon the responses from the service providers, as also recited in independent Claims 11, 22, 33 and 34.

The Walker patent does disclose a system for purchasing an unspecified-time ticket that allows a user to bid for a price from a specified airline. The Walker patent does not teach or suggest, however, determining values for a requested itinerary and alternative itineraries and

sending the price-to-beat request based upon the values. Also, the Walker patent does not teach or suggest receiving responses from the service providers including a service provider itinerary and an associated value, where the service provider itinerary may be the same, or comparable, to the requested itinerary or an alternative itinerary. Instead, the Walker patent discloses a bidding system where a traveler submits to an airline a specific itinerary and a specific price the traveler is willing to pay for an unspecified-time ticket for the specific itinerary. Nowhere, however, does the Walker patent disclose how the traveler determines the price the traveler is willing to pay for the ticket. In this regard, the Walker patent does not teach or suggest that the traveler determines the price the traveler is willing to pay for the ticket based upon a value associated with a requested itinerary and values associated with alternative itineraries, as recited by the claimed invention.

Also, as clearly stated by the Walker patent, the traveler submits a price to an airline for a specific itinerary, and the airline responds whether to accept or reject the bid based on inventory and pricing guidelines. In this regard, the Walker patent does not teach or suggest receiving, from service providers, service provider itineraries that may be the same, or comparable, to the requested itinerary or an alternative itinerary. The Walker patent clearly discloses that a specific itinerary for a specific price is either accepted or rejected by the airline, and not modified by the airline either in price (service provider price) or itinerary (service provider itinerary).

The last Official Action to specifically reject independent Claims 11, 22, 33 and 34 in the Detailed Action, stated that it would have been obvious to modify the system of Ahlstrom with the bidding system of Walker. Applicants respectfully submit, however, that any suggestion to combine the systems of Ahlstrom, DeLorme and Walker to teach or suggest a system or method including analyzing a travel itinerary to determine a set of alternative itineraries, determining a value for the travel itinerary and the alternative itineraries, sending at least one price-to-beat request, receiving responses including a service provider travel itinerary that may be the same, or comparable, to the travel itinerary or an alternative itinerary, and reconfiguring the values of the travel itinerary and the alternative itineraries based upon the responses from the service providers, comes only through Applicants' own disclosure.

The Court of Appeals for the Federal Circuit, in reversing the Board's obviousness rejections of a relatively simple invention, has reiterated the importance of closely adhering to the "critical step of casting the mind back to the time of the invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field." *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). The court further stated: "Close adherence to this methodology is especially important in the case of less technologically complex inventions, where the very ease with which the invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.' " *Id.* (quoting *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

In *Dembiczak*, the claimed invention was an orange trash bag having facial indicia (i.e., eyes, nose, and/or mouth) printed on it so that the trash bag, when stuffed with leaves or trash, resembles a Halloween pumpkin. The Examiner rejected the claims, and the Board affirmed, based on a combination of (1) conventional trash bags; (2) a reference teaching how to make a crepe paper jack-o-lantern out of a strip of orange crepe paper, construction paper cut-outs in the shape of facial features, and wadded newspapers as filling; and (3) a reference teaching a method of making a paper bag pumpkin by stuffing a bag with newspapers, painting it orange, and then painting on facial features with black paint. The Board stated that "the only difference between the invention presently defined in the independent claims on appeal and the orange plastic trash bags of the prior art and the use of such bags resides in the application of the facial indicia to the outer surface of the bag." *Id.* at 1616.

The court reversed the rejections because neither the Examiner nor the Board pointed to specific information in the references that suggest the combination with the conventional bags. The court stated that "the obviousness analysis in the Board's decision is limited to a discussion of the ways that the multiple prior art references can be combined to read on the claimed invention. . . . Yet this reference-by-reference, limitation-by-limitation analysis fails to demonstrate how the . . . references teach or suggest their combination with the conventional trash or lawn bags to yield the claimed invention." *Id.* at 1618.

Applicants submit that it is only through the teachings provided in Applicants' own disclosure that the Official Action is able to identify, from the disclosures of the Ahlstrom patent, the DeLorme patent and the Walker patent, the particular steps or elements of independent Claims 11, 22, 33 and 34. It is respectfully submitted that one of ordinary skill in the art would not have been led to this combination of elements solely from the teachings of the Ahlstrom patent, the DeLorme patent and the Walker patent, as evidenced by the fact that there is no specific information in either the Ahlstrom patent, the DeLorme patent or the Walker patent themselves that would lead one to send a price-to-beat request based upon values for a requested itinerary and alternative itineraries, receive responses including the same or comparable service provider itineraries and values, and reconfigure the values for the requested itinerary and alternative itineraries, as recited by independent Claims 11, 22, 33 and 34. Thus, Applicants respectfully submit that the cited references cannot properly be combined.

Even if the references were combined, however, Applicants respectfully submit that neither the Ahlstrom patent, the DeLorme patent nor the Walker patent, individually or in combination, teach or suggest the claimed invention of independent Claims 11, 22, 33 and 34. And as dependent Claims 37-42 depend directly from either independent Claims 11, 22 or 34, Applicants respectfully submit that neither the Ahlstrom patent, the DeLorme patent nor the Walker patent, individually or in combination, teach or suggest the claimed invention of dependent Claims 37-42 for at least the same reasons given above for independent Claims 11, 22 and 34. As such, Applicants respectfully submit that the rejection of Claims 11, 22, 33, 34 and 37-42 under 35 U.S.C. § 103(a) as being unpatentable over the Ahlstrom patent in view of the DeLorme patent, and further in view of the Walker patent, is overcome.

CONCLUSION

As described above, this amendment does not raise any new issues and does not introduce any new matter, and should therefore be considered and entered by the Examiner. In this regard, in view of the amendments to the claims and the remarks presented above, it is respectfully submitted that all of the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111


Appl. No.: 09/275,887

Filed: March 25, 1999

Page 27

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 22, 2003

A handwritten signature in cursive script, reading "Sarah B. Simmons". The signature is written in dark ink and is positioned above the printed name.

Sarah B. Simmons

CLT01/4606537v1